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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

C.A. NO. 04-11193NG

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SHAWN DRUMGOLD,  
PLAINTIFF

VS.

TIMOTHY CALLAHAN, ET AL,  
DEFENDANTS  
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DEPOSITION of RALPH C. MARTIN, II, a witness called on behalf of the Plaintiff, pursuant to the provisions of the Federal Rules of Civil Procedure, before Nancy M. Walsh, Certified Shorthand Reporter (#118593)/ Registered Professional Reporter and Notary Public in and for the Commonwealth of Massachusetts, at the law office of Tommasino & Tommasino, Two Center Plaza, Boston, Massachusetts 02108, on Monday, February 26, 2007, commencing at 8:14 a.m.

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1 Q Were you involved in being an author of this report in  
2 the sense of actually writing the words that appear in  
3 Exhibit 208?

4 A I definitely contributed to the preparation.

5 Q Were you the primary author of the report?

6 A I honestly don't know how to answer that because I  
7 certainly made a substantial contribution. I couldn't  
8 tell you if it was 30 percent, 55 percent, you know, went  
9 through drafts. I don't know how to answer that,  
10 Mr. Reilly.

11 Q Would it be fair to say the report summarizes the  
12 investigation that you were in charge of?

13 A The report recognizing that it doesn't include 6E  
14 material, so that's an important caveat. I want to make  
15 that --

16 Q Fair enough.

17 A So the report I think it says it's a summary of  
18 witnesses' interviews and non-6E material.

19 Q And is it a fair summary of the investigation you  
20 conducted with the exception of 6E Grand Jury  
21 information?

22 MR. ROACHE: Objection.

23 Q You can answer.

24 A I would say yes.

1 address the issue of the U.S. Attorney's office's  
2 practice in other cases historically by policy in  
3 relation to issuing press releases.

4 MR. REILLY: But the Touhy Regulations deal  
5 with questions concerning his work as the United States  
6 Attorney. This question is simply his observations, not  
7 anything he learned doing investigations but simply his  
8 observations whether that was an unusual occurrence?

9 MS. HEALY SMITH: To the extent the question  
10 goes to his experience and observations as an Assistant  
11 U.S. Attorney between 1985 and 1992, then it is -- comes  
12 within the Touhy Regulations and is beyond the scope.

13 Q Why was a press release issued in this case?

14 MR. ROACHE: Objection.

15 MS. HEALY SMITH: Objection. That is  
16 specifically beyond the scope of the authorization.

17 Q What were the circumstances surrounding the preparation  
18 of this report?

19 A The investigation had come to a conclusion. It was  
20 determined that no charges would be filed. And the --  
21 obviously the murder of Carol Stuart and the Boston  
22 Police Department investigation after that had been a  
23 case of great public -- great coverage by the news  
24 media --

1 MS. HEALY SMITH: I have to stop you. I have  
2 to instruct you not to answer as to the purpose of the  
3 press release as that is expressly excluded from your  
4 authorization.

5 Q My question is what were the circumstances surrounding  
6 the preparation of the report?

7 A So after the report -- excuse me, after the investigation  
8 was concluded, the U.S. Attorney -- I'm sort of -- you  
9 guys have me in limbo.

10 Q That makes two of us, but do your best.

11 MS. HEALY SMITH: If I can just read from the  
12 authorization letter which circumscribes what Mr. Martin  
13 can testify about today, it says that Mr. Martin, who is  
14 not responsible for making the decision to issue the  
15 press release, may not testify as to the purpose of the  
16 press release as such testimony by him would violate the  
17 deliberative process privilege, end of quote from the  
18 letter.

19 So as to the preparation of the report, who  
20 contributed, those are -- he's authorized to testify  
21 about those, but he's not authorized to tell you why the  
22 U.S. Attorney made the determination to issue the press  
23 release.

24 Q What were the circumstances surrounding the preparation

1 of the report?

2 A The circumstances were that the investigation had been  
3 concluded. No people were going to be charged. It was a  
4 case of great public scrutiny. And that's probably about  
5 as much as I can say given counsel's limitation, Miss  
6 Smith's limitation.

7 Q As part of the investigation you conducted, did you talk  
8 to any Boston police officers?

9 A I did not -- well, yes.

10 Q What Boston police officers do you remember talking to?

11 A I had -- I believe I had a brief conversation with then  
12 Lieutenant Ed McNelley in the corridor of the Federal  
13 Courthouse.

14 Q What was his position at that point when you talked to  
15 him?

16 A He was the commander of the Homicide Unit.

17 Q What do you remember him saying and you saying in that  
18 conversation?

19 A It was I think they were pleasantries. That's about it.

20 Q Did you talk to Mickey Roache, the Police Commissioner  
21 during the time you did this investigation?

22 A No, I did not.

23 Q Did you talk to any of the police officers who were  
24 involved in the investigation of Carol Stuart's murder?

1 MR. ROACHE: Objection.

2 A Can I go back to my conversation? Because this was a  
3 frame of reference. I obviously talked to officers who I  
4 questioned in the Grand Jury. I take it your question is  
5 asking me did I talk to them outside the Grand Jury  
6 process.

7 Q That's correct. I'm not asking about what you asked them  
8 in the Grand Jury.

9 A The only one I remember talking to outside of the Grand  
10 Jury process was Lieutenant McNelley, and that, as I  
11 said, was just an exchange of pleasantries.

12 Q As part of the investigation, and all of my questions are  
13 focusing on outside of the Grand Jury, with the exception  
14 of the Grand Jury testimony, as part of your  
15 investigation, did you have conversations with any  
16 witnesses concerning the management of the Boston Police  
17 Homicide Unit?

18 MR. ROACHE: Objection.

19 A I don't believe I did. You're talking about outside the  
20 Grand Jury process?

21 Q Correct.

22 A I don't believe that I did.

23 Q Lieutenant McNelley was in charge of the Homicide Unit;  
24 is that correct?